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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,955	09/15/2003	Syed Mohammad Amir Husain	5602-12200	1046

7590 04/11/2007
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EXAMINER

NGUYEN, NHA T

ART UNIT	PAPER NUMBER
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2825

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/662,955	Applicant(s) HUSAIN ET AL.	
	Examiner Nha Nguyen	Art Unit 2825	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action responds to the Amendment filed on 1/12/2007. Claims 1-30 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 8, 9-14, 16, 17-22, 24, and 25-30 are rejected under 35 U.S.C. 102(b) as being anticipated by **Turpin et al**, (US Patent No. 6,144,992) hereinafter **Turpin**.

As per Claim 1, Turpin discloses a method comprising: receiving software at one or more remote computer systems (See Turpin Abstract; Lines 5-13, Also see Col 7; Lines 12-19); And

Receiving instructions for installing the software at the one or more remote computer systems (See Turpin Col 3&4; Lines 65-67: 1-7), Wherein

The instructions for installing the software comprise one or more messages in a portable format (See Turpin Col 5; Lines 22-25, "***Packet of data received...***"). Wherein "***Packet of data***" is the "**portable format**" as claimed.

Translating the instructions for installing the software from the portable format to an executable format at each of the one or more remote computer systems (See Turpin Abstract; Lines 5-15, and Also See Turpin Col 5; Lines 19-25, "**Processed the data...data is to be processed**") Wherein "**Processed the data**" is "translating the instructions", Thereby

Generating executable instructions; and executing the executable instructions to install the software at each of the one or more remote computer systems (See Turpin Abstract; Lines 16-19 and Also Col 9; Lines 30-40).

As per Claim 2, the rejection of claim 1 is incorporated. Turpin discloses that the instructions are sent and received using peer-to-peer message passing between a first computer system, the one or more remote computer systems, and one or more intermediary computer systems (See Turpin Col 3&4; Lines 65-67: 1-7, Also see Col 7; lines 12-29, "**Data...from any computer**"; Also see Abstract; lines 8-13, "transfer data ... first system over computer network; Also see Col 7 & Fig 2; Lines 5-9 Transferring data to and from the **network server** and from and to individual computers on network). Wherein "**Data**" is a "**message**". Wherein "network server" mentioned is the "intermediate computer" claimed.

As per Claim 3, the rejection of claim 1 is incorporated. Claim 3 is rejected under the same reason set forth in connection of the rejection of claim 2 and further Turpin discloses that software are sent and received (See Turpin Col 1, lines 10-14).

As per Claim 4, the rejection of claim 1 is incorporated. Turpin discloses receiving user input to record the instructions for installing the software (See Turpin Col 3&4; lines 65-67; lines 1-7, "***upon user command***"). Wherein "***upon user command***" is the "**receiving user input to record the instructions**".

As per claim 5, the rejection of claim 4 is incorporated. Claim 5 is rejected under the same reason set forth in connection of the rejection of claim 4.

As per claim 6, the rejection of claim 1 is incorporated. Turpin discloses the receiving of user input to select the one or more remote computer systems from a plurality of available computer systems (See Turpin Col 7, lines 19-25, "***transferring to one or all of slave computers***") Wherein "***transferring to one or all of slave computers***" is the "**receiving of user input to select one or more remote computer systems**" as claimed.

As per claim 8, the rejection of claim 1 is incorporated. Turpin discloses that the instructions are received through a distributed computing infrastructure. (See Col 3-4; lines 66-67; lines 1-3, "***Over a network***"). Wherein "***Over a network***" is a "**distributed computing infrastructure**" as claimed.

Claims 9-14, and 16 are computer-accessible memory medium claims corresponding to the method claim 1-6, and 8 respectively and are rejected under the same reason as set forth in connection of the rejection of claim 1-6, and 8 respectively and further Turpin discloses that the program instructions are computer-executable (See Turpin Col 5, lines 22-25 , "processed data received"). Wherein "***processed data received***" is the "**computer-executable instruction**".

Claim 17 is a system claim corresponding to the method of claim 1 and rejected under the same reason as set forth in connection of the rejection of claim 1 and further Turpin discloses a computer comprising of a CPU and memory (See Turpin Col 6; Lines 38-45, See Figure 1). Turpin also discloses first computer system and one or more remote computer systems are communicatively coupled via a network. (See Turpin Fig. 2).

As per claim 18, the rejection of claim 17 is incorporated. Claim 18 is a system claim corresponding to the method of claim 2 and rejected under the same reason as set forth in connection of the rejection of claim 2.

As per claim 19, the rejection of claim 17 is incorporated. Claim 19 is a system claim corresponding to the method of claim 3 and rejected under the same reason as set forth in connection of the rejection of claim 3.

As per claim 20, the rejection of claim 17 is incorporated. Claim 20 is a system claim corresponding to the method of claim 4 and rejected under the same reason as set forth in connection of the rejection of claim 4.

As per claim 21, the rejection of claim 20 is incorporated. Claim 21 is a system claim corresponding to the method of claim 5 and rejected under the same reason as set forth in connection of the rejection of claim 5.

As per claim 22, the rejection of claim 17 is incorporated. Claim 22 is a system claim corresponding to the method of claim 6 and rejected under the same reason as set forth in connection of the rejection of claim 6.

As per claim 24, the rejection of claim 17 is incorporated. Claim 24 is a system claim corresponding to the method of claim 8 and rejected under the same reason as set forth in connection of the rejection of claim 8.

As per claim 25 and 26, the rejection of claim 1 is incorporated. Turpin discloses that the instructions (Software) are sent and received using peer-to-peer message passing between a first computer system and the one or more remote computer systems (See Turpin Col 7; Lines; 3-29).

As per claims 27 and 28, the rejection of claim 9 is incorporated. Claims 27 and 28 is a computer-accessible memory medium claim corresponding to the method of claims 25 and 26 and are rejected under the same reason as set forth in connection of the rejection of claims 25 and 26.

As per claim 29 and 30, the rejection of claim 17 is incorporated. Claims 29 and 30 are system claim corresponding to the method of claims 25 and 26 and are rejected under the same reason as set forth in connection of the rejection of claims 25 and 26.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 15, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turpin, (US Patent No. 6,144,992) hereinafter **Turpin**, in view of **Vigue** et al, (US Patent No. 6,983,326) hereinafter **Vigue**.

As per claim 7, the rejection of claim 1 is incorporated. Turpin did not disclose that the portable format comprises XML, and wherein the messages comprise XML

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messages. However, Vigue in an analogous art discloses the teaching of utilizing XML in messages (See Vigue Col 8; Lines 14-19, "**packet format....XML format**"). Wherein "**packet format**" is "**a message**" as claimed. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention was made to incorporate the teaching of Turpin into the method of Vigue. The modification would have been obvious because one of the ordinary skill in the art would want to be able to utilize the messages format to provide the mark-up of sections in the message. This would allow for the flexibility in the displaying and presentation of data.

As per Claim 15, the rejection of claim 9 is incorporated. Claim 15 is a computer-accessible memory medium claim corresponding to the method of claim 7 and rejected under the same reason as set forth in connection of the rejection of claim 7

As per Claim 23, the rejection of claim 17 is incorporated. Claim 23 is a system claim corresponding to the method of claim 7 and rejected under the same reason as set forth in connection of the rejection of claim 7.

Response to Argument

6. Applicant's argument filed on 1/12/2007 have been fully considered but they are not persuasive. Applicant argues that: "Turpin fails to teach or suggest a method comprising "translating the instructions for installing the software from the portable format to an executable format at each of the one or more remote computer systems,

thereby generating executable instructions". As previously indicated in the rejection of Claim 1, Turpin discloses that it processed the packet of data received (See Turpin; Col 5; Lines 21-22), the packages received information regarding to how the data is used for when processing it (See Turpin; Lines 23-25). Furthermore, Turpin discloses that the invention is toward a method of installing executable software, and simultaneously install new system software on many computers (See Abstract). The processing of the packet in Turpin is the "translating the instructions for installing the software from the portable format to an executable format at each of the one or more remote computer systems, thereby generating executable instructions" in the claim. It take the packet it received (which contain information about what the data is and how to process it), and process it. Applicant also argue that Turpin does not disclose "wherein the instructions are sent and received using peer-to-peer message passing between a first computer system, the one or more remote computer systems, and one or more intermediary computer systems.". Turpin discloses that the invention operate in peer-to-peer mode (See Turpin; Col 4; lines 15-20), and the transfer of data to and from a network server, to and from any individual computers on the network (See Turpin; Col 7; Lines 3-29). Turpin discloses different type of network included LAN, and WAN (See Col 6; Lines 51-53). If a data file is sent from a site in United State to a computer in Europe utilizing a network (WAN), the file is traveling through an intermediate computer system before it reach the destination Europe. As indicated in the rejection of Claim 2, the "Network" is the intermediary computer system. Under the broadest reasonable interpretation of the claim language, the rejections are maintained as above indicated.

The 101 and 112 rejection and the objection to the specification are withdrawn.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nha Nguyen whose telephone number is 571-270-1405. The examiner can normally be reached on M-F 8:30 - 6:00 PM EST. (Every other Friday OFF).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Chiang can be reached on 571-272-7483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nha Nguyen


JACK CHIANG
SUPERVISORY PATENT EXAMINER